IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

CRP.No. 1903 of 2002

CR.860/1977 of TALUK LAND BOARD, ERNAD

REVN. PETITIONER:

CHEERANTHODI AYISHA,
D/O. CHEERANTHODI ALAVI, ERNAD TALUK,
KARAKKUNNU AMSOM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:
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1. THE TALUK LAND BOARD, ERNAD.

2. THE TAHSILDAR, ERNAD.

3. THE STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.DILEEP

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.M.P.NO.4639/2002 IN C.R.P.NO.1903/2002

DISMISSED

17/12/2007 SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

AHZ/

K.T.SANKARAN,J.

C.R.P.No. 1903 OF 2002-E

DATED THIS THE 14th DAY OF DECEMBER, 2007

O R D E R

In the ceiling case in which M.P.M.Hassan Sherif Kurikkal was the declarant, the Taluk Land Board passed a final order dated 15.3.1984 holding that the family of the declarant was not in possession of excess lands. The State challenged that order in C.R.P.No.1769/85. The revision was allowed on 11.12.1987. The order of the Taluk Land Board was set aside and the matter was remanded to the Taluk Land Board for disposal of the case afresh in respect of 19.62 acres in R.S.No.390/1A of Karakkunnu Village allegedly in the possession of tenants. The Taluk Land Board directed to re-investigate the matter in respect of 19.62 acres. The Taluk Land Board thereafter issued notices to the tenants to appear. They did not appear. The Taluk Land Board passed an order dated 28.5.1990 directing the declarant to surrender an extent of 18.20 acres in R.S.No.390/1A. Thereafter the persons who claimed to be tenants filed application under section 85(8) of the Act. Those applications were rejected on the ground that they did not appear before the Taluk Land Board before passing the final order dated 28.5.1990. The order passed by the Taluk Land Board in the 85(8) applications were

challenged in C.R.P.Nos.452/92, 454/92 and 472/92. Those revisions were dismissed on the ground that they were not entitled to claim any relief under section 85(8) they being failed to appear before the Taluk Land Board earlier. Thereafter five persons including the brother of the revision petitioner filed applications under sections 85(6) and 85(9)(b) of the Act. The Taluk Land Board held that the applications were maintainable in spite of dismissal of the applications under section 85 (8) of the Act. Thereafter the case putforward by those five persons were considered on merits and the Taluk Land Board held thus:

> " According to the original enquiry report of the Tahsildar, Ernad the declarant obtained right over the properties included in the ceiling case by document Nos.875/53, 1992/65 and 301/71 of the SRO, Manjeri. The claimants in this case are in possession of lands by virtue of documents executed prior to the declarant's obtaining right over the properties included in this case. Hence it is clear that the land claimed by the petitioners are different from the lands included in the ceiling case.
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> In the circumstances the TLB decides to exclude the lands in the possession of the petitioners from surrender as excess lands.
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> It is made clear that the extent of excess lands will remain unchanged. The authorised officer will be deputed to conduct detailed verification of the lands with the assistance of the Taluk Surveyor, Manjeri, with reference to Document No.875/53, 1992/65 and 301/71 of SRO, Manjeri. He will identify the lands belonging to the declarant and report the details of occupants of the land indicating their nature of occupation. The TLB will take decision on the rights of the present occupants of the lands in due course after hearing them."

2. The revision petitioner is the sister of Cheeranthodi Hamza who had filed the application under sections 85(6) and 85(9)(b). In

that application Hamza had contended that an extent of 57 cents of land is liable to be executed as he is in possession of 26 cents, his sister Pathumma is in possession of 27 cents and the revision petitioner Ayisha is in possession of 4 cents. Now the revision petitioner says as per the partition deed under which she got her share for the properties, she was allotted with an extent of 27 cents of land. The revision petitioner wants the Taluk Land Board to pass an order that she is entitled to an extent of 27 cents of land.

3. Since the State has not filed any revision against the order passed by the Taluk Land Board, I am not considering the legality or otherwise of the view taken by the Taluk Land Board that an application under section 85(6) and 85(9)(b) at the instance of claim petitioners whose claim petitions were rejected earlier would be maintainable or not.

Part heard and posted to 17.12.2007 for disposal.

K.T.SANKARAN, JUDGE

dsn